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UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF NEW YORK

**Electronically Filed**

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 M&I EQUIPMENT FINANCE COMPANY,

Civil Action No. 08 CV 02164 (GEL)

Plaintiff,

:

- v -

**ANSWER TO COMPLAINT  
 AND AFFIRMATIVE DEFENSES**

SIGNATURE BANK,

:

Defendant.

:

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Defendant Signature Bank, by its counsel, Herrick, Feinstein LLP, as and for its  
 Answer to the Complaint, hereby alleges as follows:

1. Denies knowledge or information sufficient to form a belief as to the truth  
 of the allegations contained in paragraph "1" of the Complaint.

2. Admits the allegations contained in paragraph "2" of the Complaint.

3. The allegations contained in Paragraph "3" of the Complaint are legal  
 conclusions for which no response is required; however, to the extent a response is required, the  
 allegations are denied.

4. The allegations contained in Paragraph "4" of the Complaint are legal  
 conclusions for which no response is required; however, to the extent a response is required, the  
 allegations are denied.

5. Denies knowledge or information sufficient to form a belief as to the truth  
 of the allegations contained in paragraph "5" of the Complaint.

6. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "6" of the Complaint..

7. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "7" of the Complaint.

8. Denies the allegations contained in paragraph "8" of the Complaint.

9. Denies the allegations contained in paragraph "9" of the Complaint.

10. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "10" of the Complaint.

11. Denies knowledge or information sufficient to form a belief as to truth of the allegations contained in paragraph "11" of the Complaint.

12. Denies the allegations contained in paragraph "12" of the Complaint.

13. Denies the allegations contained in paragraph "13" of the Complaint.

#### **FIRST AFFIRMATIVE DEFENSE**

The Complaint fails to state a claim upon which relief may be granted.

#### **SECOND AFFIRMATIVE DEFENSE**

At all relevant times, Signature Bank had a right to set off any and all funds being maintained by Moise Banayan, Ahava Food Corp. and Lewis County Dairy Corp. at Signature Bank.

#### **THIRD AFFIRMATIVE DEFENSE**

Plaintiff failed to execute upon or otherwise enforce the restraining notices allegedly sent to Signature Bank and has therefore not sustained any damages.

#### **FOURTH AFFIRMATIVE DEFENSE**

Plaintiff's action is barred by the applicable statute of limitations.

**FIFTH AFFIRMATIVE DEFENSE**

Plaintiff's action is barred by the doctrines of waiver, laches and estoppel.

**SIXTH AFFIRMATIVE DEFENSE**

Plaintiff's security interest in any and all funds being maintained by Moise Banayan, Ahava Food Corp. and Lewis County Dairy Corp. at Signature Bank was superior to the alleged judgments obtained by plaintiff.

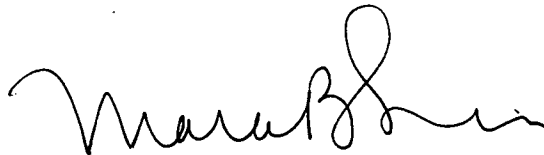
**SEVENTH AFFIRMATIVE DEFENSE**

Plaintiff's action is barred by the Debtor & Creditor Law Section 151.

**WHEREFORE**, Signature Bank demands judgment as follows:

- (a) dismissing the Complaint in its entirety with prejudice;
- (b) denying each and every demand and prayer for relief contained in the Complaint; and
- (c) awarding any other and further relief as the Court deems proper, including but not limited to Defendant's attorneys fees and costs associated with defending this action.

Dated: New York, New York  
March 25, 2008



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